

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Muskan Bhadauria	Team: Squad #07	CCRB Case #: 202208508	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 12/05/2022 9:30 AM	Location of Incident: Bedford – Nostrand Avenue subway station (G line)	18 Mo. SOL 6/5/2024	Precinct: 79		
Date/Time CV Reported Mon, 12/05/2022 12:25 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/13/2022 2:22 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Jean Polonia	06655	970778	079 PCT
2. PO Victor Roopnarine	15175	957104	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Renee Thomas	08131	959296	TD 30
2. PO Brigida Ferdinand	22220	963984	TD 30
3. SGT Jose Dias	02663	948325	TD 30
4. PO Steven Theophile	20214	959293	TD 30

Officer(s)	Allegation	Investigator Recommendation
A . PO Jean Polonia	Abuse: Police Officer Jean Polonia improperly used his body-worn camera.	
B . PO Victor Roopnarine	Abuse: Police Officer Victor Roopnarine improperly used his body-worn camera.	
C . PO Jean Polonia	Force: Police Officer Jean Polonia used physical force against § 87(2)(b)	
D . PO Victor Roopnarine	Force: Police Officer Victor Roopnarine used physical force against § 87(2)(b)	
E . PO Jean Polonia	Force: Police Officer Jean Polonia used physical force against § 87(2)(b)	
F . PO Victor Roopnarine	Force: Police Officer Victor Roopnarine used physical force against § 87(2)(b)	
G . PO Jean Polonia	Abuse: Police Officer Jean Polonia ejected § 87(2)(b) from the transit system.	
H . PO Victor Roopnarine	Abuse: Police Officer Victor Roopnarine ejected § 87(2)(b) from the transit system.	

### Case Summary

On December 5, 2022, § 87(2)(b) filed the following complaint with IAB. The complaint was then forwarded and received by the CCRB on December 13, 2022, under IAB log #: § 87(2)(b)

On December 5, 2022, at approximately 9:30 a.m., § 87(2)(b) was standing inside the Bedford-Nostrand-Avenue subway station “G” line, in Brooklyn, with his Siberian Husky. At the time, § 87(2)(b) was working at this station as the booth transit worker. Police Officers Victor Roopnarine and Jean Polonia of the 79<sup>th</sup> Precinct were also present working transit overtime. Upon seeing PO Polonia and PO Roopnarine, § 87(2)(b) began cursing at the officers and they instructed him to leave the station. PO Roopnarine and PO Polonia did not activate their BWC’s at this point (**Allegation (A) and (B) Abuse of Authority:** § 87(2)(g) As PO Roopnarine and PO Polonia walked § 87(2)(b) out, PO Roopnarine and PO Polonia allegedly pushed him and punched him in his lower back over three times (**Allegations(C)- (F) Force:** § 87(2)(g) PO Roopnarine and PO Polonia ejected § 87(2)(b) from the train station (**Allegations (G) and (H) Abuse of Authority:** § 87(2)(g)

Having been walked out of the station, § 87(2)(b) called 911 to report that he was physically assaulted by PO Roopnarine and PO Polonia and wanted their name and badge numbers. Approximately fifteen minutes later, Police Officers Renee Thomas, Brigida Ferdinand, Steven Theophile, and Sergeant Dias, of the Transit District 30 Command, arrived at the subway station. Sgt. Dias spoke to § 87(2)(b) outside of the station and PO Roopnarine and PO Polonia inside the station. PO Roopnarine and PO Polonia turned on their BWC cameras at that point to provide their name and shield numbers to § 87(2)(b) left the subway station and was not arrested or served with a summons in relation to this incident.

On January 3, 2023, the CCRB received six body-worn camera (BWC) videos from NYPD legal captured by the cameras of PO Thomas, PO Ferdinand, PO Theophile, PO Polonia and PO Roopnarine and Sgt. Dias (**BR 01**).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Jean Polonia improperly used his body-worn camera.**

**Allegation (B) Abuse of Authority: Police Officer Victor Roopnarine improperly used his body-worn camera.**

**Allegation (C) Force: Police Officer Jean Polonia used physical force against § 87(2)(b)**

**Allegation (D) Force: Police Officer Victor Roopnarine used physical force against § 87(2)(b)**

**Allegation (E) Force: Police Officer Jean Polonia used physical force against § 87(2)(b)**

**Allegation (F) Force: Police Officer Victor Roopnarine used physical force against § 87(2)(b)**

**Allegation (G) Abuse of Authority: Police Officer Jean Polonia ejected § 87(2)(b) from the transit system.**

**Allegation (H) Abuse of Authority: Police Officer Victor Roopnarine ejected § 87(2)(b) from the transit system.**

It is undisputed that § 87(2)(b) was standing inside the Nostrand-Avenue Subway station and cursed at PO Roopnarine and PO Polonia. It is also undisputed that PO Roopnarine and PO Polonia did not turn on their body worn camera when they began interacting with § 87(2)(b) and that PO Polonia and PO Roopnarine ejected § 87(2)(b) from the Nostrand -Avenue subway station.

§ 87(2)(b) stated that PO Roopnarine and PO Polonia were verbally harassing him, although he could not recall what either of them specifically said (BR 02). In response, § 87(2)(b) swore at officers and told them to “shut up.” § 87(2)(b) stated that as he was leaving, PO Polonia and PO Roopnarine pushed him and punched him in his lower back over three times. § 87(2)(b) stated that he did not know whether officers used a closed fist or open fist because his back was turned and as a result did not know which officer used force against him.

§ 87(2)(b) the transit booth worker at the time, stated that § 87(2)(b) was staring at the officers and PO Polonia complimented § 87(2)(b) dog (BR 03). § 87(2)(b) was aggressively speaking with cops and yelled, “Why are you staring at me? Don’t look at me.” PO Polonia and PO Roopnarine then began approaching § 87(2)(b) and told him, “Sir, we need you to leave the station.” § 87(2)(b) did not see either PO Roopnarine or PO Polonia physically contact § 87(2)(b) in any way. § 87(2)(b) did not see PO Roopnarine and PO Polonia push or punch § 87(2)(b). However, as PO Roopnarine and PO Polonia were walking behind § 87(2)(b) they walked out of vision from the transit booth and § 87(2)(b) could not see the end of the interaction.

The CCRB received the transit ejection report prepared by PO Roopnarine, which states that § 87(2)(b) was ejected from the station for “Breach of Peace” and in the Other Category, “Disorderly Conduct” was written (BR 04).

At the 2:22 minute mark on Sgt. Dias’s BWC, he says to PO Roopnarine, “What happen exactly upstairs?” and PO Roopnarine replies, “Alright so, there’s a guy standing here the guy with the dog that out there, we’re standing on the opposite side we just look at his dog and then he just starts going crazy (BR 05). ‘Yo what the fuck you looking at’, ‘Oh suck my dick’ this and that, all this crazy shit. PO Roopnarine continues at 2:42 and says, “Alright whatever so we come up on the other side like ‘Yo what’s going on, what’s the deal we just looking at your dog that’s it’ PO Roopnarine explains that § 87(2)(b) then started “going off” saying ‘What you gonna do, you’re not gonna do shit’ to which PO Roopnarine responded, ‘Sir you gotta relax or you’re gonna get kicked out.’ PO Roopnarine stated that § 87(2)(b) said, ‘Then kick me the fuck out then’ and PO Roopnarine responded, ‘Alright, you wanna get kicked out, you’re gonna get kicked out’ Sgt. Dias asks at 3:01, “You guys put your hands on him?” to which PO Roopnarine responded, “We just like pushed him a little” and motions with his hand outstretched. PO Polonia also motions outstretching both his hands in front of his chest. Sgt. Dias says, “Up the stairs or?” and PO Roopnarine says, “Cause he was not moving” and PO Polonia says, “No, no he walked from here, he walked out by himself” and PO Roopnarine says, “Just from right here cause he wasn’t moving” and points toward MTA booth near turnstiles. PO Roopnarine says, “It happened quick and then we were just like ‘Yo you guys we have to leave’ and then we just pushed him cause he didn’t want to move so we just kinda nudged him and then once he got to right here and then he starting walking by himself”.

PO Polonia stated that as he stood on the mezzanine level of the subway station, past the turnstiles, he saw § 87(2)(b) with his husky (BR 06). PO Polonia stated to § 87(2)(b) “I’m not really into dogs, but that’s a good-looking dog”. It was at that point that § 87(2)(b) yelled, “Fuck you, you guys are useless, you guys don’t do anything, you’re a whole bunch of pussies. You are not going to do anything.” § 87(2)(b) continued to curse. PO Polonia and PO Roopnarine walked past the turnstiles, and PO Polonia stated to § 87(2)(b) that he needed to leave because he was being disorderly. Other than § 87(2)(b) cursing at officers, there was no other reason he was being disorderly. PO Polonia explained that he did not turn on his body-worn camera during the incident because there was no criminal activity, so he did not feel the need to turn on his body-worn camera. PO Polonia also stated that because the incident was a conversation with a civilian, which happens often, and that only § 87(2)(b) was being combative and the officers were not, he did not feel the

need to turn on his body-worn camera. After asking § 87(2)(b) multiple times to leave the station, § 87(2)(b) began walking towards the subway station exit, with PO Polonia to § 87(2)(b) left side and PO Roopnarine to § 87(2)(b) right side. § 87(2)(b) then stopped, became stationary, and began to curse again. PO Polonia tapped § 87(2)(b) on the left elbow twice to signal to § 87(2)(b) to continue to walk. PO Polonia tapped him on the long stretch of the hallway prior to the stairs of the subway exit. PO Polonia did not make contact with § 87(2)(b) anywhere else on his body. PO Polonia did not recall PO Roopnarine making any physical contact with § 87(2)(b). PO Polonia did not make any physical contact with § 87(2)(b) back and he did not punch or push § 87(2)(b). He did not witness PO Roopnarine punch or push § 87(2)(b). When the portion of Sgt. Dias's camera mentioned above was played, PO Polonia stated that a tap of an elbow is a "push" to officers and that once an officer puts their hands on a person, it can be called a push, even if it's a tap. PO Polonia reiterated that he did not shove § 87(2)(b) or push him.

PO Roopnarine also stated that PO Polonia complimented § 87(2)(b) dog. After this, § 87(2)(b) stated, "Don't fucking look at my dog, don't touch my dog, don't talk to me," and continued to yell out profanities such as, "Fuck you, suck my dick. You guys are fucking pigs." (BR 07) PO § 87(2)(b) needed to be removed because he was being disorderly. PO Roopnarine did not recall how many people there were in the station at that time. When asked if others were disturbed by § 87(2)(b) behavior, PO Roopnarine stated that other passengers looked over when they were speaking to § 87(2)(b) but he could not tell if they were disturbed. PO Roopnarine did not think § 87(2)(b) behavior was appropriate because there are children and workers who ride the train every day and should not have to hear that language. PO Roopnarine approached § 87(2)(b) and stated, "Ok, you have to leave," § 87(2)(b) did not move and continued cursing and yelling at the police officers. At that point, PO Roopnarine touched § 87(2)(b) right elbow and PO Polonia touched § 87(2)(b) left elbow to direct him towards the exit. When PO Roopnarine touched § 87(2)(b) elbow, § 87(2)(b) said, "Don't fucking touch me," and walked on his own up the stairs and on the street. PO Roopnarine and PO Polonia walked behind him up the stairs and then came downstairs. Neither PO Roopnarine or PO Polonia pushed, hit, or punched § 87(2)(b). The portion of Sgt. Dias' Body-Worn Camera mentioned above, in which PO Roopnarine stated, "we pushed him" was shown to PO Roopnarine in his CCRB interview. PO Roopnarine stated if he said he pushed him, it wasn't a push, but an escort of § 87(2)(b) to indicate it was time to leave. PO Roopnarine reiterated he did not push or shove § 87(2)(b). PO Roopnarine did not turn on his BWC because nothing physical happened and PO Polonia and PO Roopnarine did not issue a summons. After Sgt. Dias informed PO Roopnarine that § 87(2)(b) had made allegations against him, PO Roopnarine turned on his BWC and presented § 87(2)(b) with his business card. To PO Roopnarine's knowledge, BWC should be turned on when an interaction becomes physical or if someone is being issued a summons.

On January 4, 2023, the investigation received surveillance footage from the MTA, which did not capture the incident (BR 08).

*Patrol Guide Procedure 212-123* states that police officers are mandated to activate BWC prior to engaging in any police activity and to "record any interactions that escalate to become adversarial or may hold evidentiary value," (BR 09).

*Patrol Guide Procedure 221-01*, states, "Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody," (BR 10).

*New York City Rules and Regulations Section 1050.7* states that no person in transit facilities shall "conduct himself or herself in any manner which may cause or tend to cause



annoyance, alarm or inconvenience to a reasonable person or create a breach of the peace,” (BR 11). *Patrol Guide Procedure 212-20* states that any person who violates any portion of NYCRR Part 1050 is subject to ejection from New York City Transit facilities (BR 12).

In *Matter of Armell N.*, 28 Misc 3d 528, 529, the courts found that that an individual who stated, “what the fuck are you looking at?” to a police officer on a subway train when there was no evidence that the individual impeded anyone’s egress or otherwise violated any provision of the transit rule did not justify an ejection from a train station. The courts also noted that “a private annoyance to an officer, in the absence of testimony showing that there was a breach of the peace, or that it attracted undue attention or caused consternation amongst anyone else...is insufficient to constitute disorderly conduct.” (BR 13).

Given that § 87(2)(b) was yelling and cursing at PO Roopnarine and PO Polonia, the interaction had become adversarial. PO Roopnarine and PO Polonia also engaged in the police action of ejecting § 87(2)(b) from the transit station before turning their Body Worn Cameras on. § 87(2)(g)

§ 87(2)(g)

Both PO Polonia and PO Roopnarine, as stated in their testimonies and the transit ejection report, ejected § 87(2)(b) because of disorderly conduct, which consisted of cursing at officers. PO Roopnarine, in speaking to Sgt. Dias on BWC, stated that after § 87(2)(b) cursed and said, “You’re not gonna do shit” to the officers, PO Roopnarine informed him that he needed to relax or he would be ejected. Neither PO Polonia nor PO Roopnarine specified how § 87(2)(b) statements created a breach of peace beyond the officers. § 87(2)(g)

#### Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Roopnarine has been a member of service for Eight years and has been a subject in three other CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)

## Mediation, Civil, and Criminal Histories

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## RPBP History

Squad: 9

Investigator:	<u>Muskan Bhadauria</u> Signature	<u>Investigator Bhadauria</u> Print Title & Name	<u>August 22, 2023</u> Date
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Squad Leader: \_\_\_\_\_

Signature	Manager Vanessa Rosen	August 22, 2023
Print Title & Name		Date

Reviewer: \_\_\_\_\_

Signature	Print Title & Name	Date
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